

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

CLAIM PETITION NO. 63/SB/2021

1. Harish Bhatt, aged about 56 years, s/o Shri Rawadhar Bhatt, r/o RVS Srinagar, c/o Base Hospital, Srinagar, Garhwal.
2. R.C. Gautam, aged about 53 years, s/o Late Shri Manohar Singh, r/o House no. 37, Lane No. 2, Madhur Vihar, Sahastradhara Road, Dehradun.

.....Petitioners

vs.

1. State of Uttarakhand through Principal Secretary/Secretary, Medical Health and Family Welfare, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director, Medical Health and Family Welfare Directorate, Chandan Nagar, Dehradun.
3. Joint Director (EPI) Family Welfare Directorate, Chandan Nagar, Dehradun.

.....Respondents

Present: Sri M.C.Pant (*online*) & Abhishek Chamoli, Advocates,
for the petitioner.
Sri V.P. Devrani, A.P.O. for the Respondents.

JUDGMENT

DATED: MAY 03, 2024

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioner seeks the following reliefs:

“a) To issue appropriate order or declaration in favor of the petitioners to this effect that the petitioners are entitled for the benefit of upgraded pay scale of Rs 4500-7000 grade pay 2800/- in the pay-band-1, Rs.5200-20200 since the date 01.01.2006 by giving notional increment from 01.01.1996 because it is a case of Pay Anomaly of 5th Pay Commission, as recommended by the Pay Anomaly Committee from the date 01.01.2006 to the employees of State of Uttarakhand and quash the impugned order dated 14.11.2018 and 11.12.2018 passed by the Respondents along with its effect and operation also after

calling the entire order from the respondents, or to mould the relief appropriately.

b) To issue an order or direction, directing to the respondents to grant the benefit of pay scale up-gradation of pay scale Rs. 5200-20200/- grade pay of Rs 2800/- to the pay scale of Rs 9300-34800/- with grade pay of Rs 4200 to the petitioners as have been granted vide the G.O. dated 17.12.2015 of Respondent No 1 at par to the Lab Technicians of medical health and family welfare department, along with all service benefits including arrears, and accordingly re-fix the pay of the petitioners since 01.01.2006 notionally from 01.01.1996 keeping in view the facts highlighted in the body of the petition had it been the impugned order was never being in existence.

c) Issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

d) Award the cost of the petition in favour of the petitioners."

2. The affidavit has been filed by petitioner no.1, Sri Harish Chandra Bhatt, in support of the claim petition. Relevant documents have been filed with the claim petition.

3. The claim petition has been contested by the respondents. C.A. has been filed by Dr. Amlesh Kumar Singh, Joint Director (I/C), Medical Health and Family Welfare, in support of the W.S. Respondents have also filed relevant documents in support of their version.

4. This is 3rd round of litigation before the Tribunal. In the first round, a direction was given to the respondents to decide the representation of the petitioner. When the same was not decided, the petitioner had to file execution petition, which was disposed of by the Tribunal *vide* order dated 23.05.2019.

5. Finally, representation of the petitioner was rejected on 25.09.2019 on the strength of G.O. no. 239 dated 31.10.2017, issued by the Finance Department, Govt. of Uttarakhand (Annexure No. 1 to the C.A.).

6. The representation was decided by a Committee, comprising of Director General, Medical Health and Family Welfare; Director, Medical

Health; Director (N.P.); Finance Officer; Assistant Director (F.W.) and Chief Administrative Officer of the Directorate.

7. Learned Counsel for the petitioners submitted that this is a policy matter. The decision could not, probably, have been taken at the level of the Directorate. The decision should have been taken at the level of the Govt. It will be in the fitness of things, if the decision is taken by the Govt. in Medical Health Department.

8. Learned Counsel for the petitioners submitted that the matter may be referred to the respondent no. 1, Secretary, Medical Health and Family Welfare for considering the prayer of the petitioners, as per law. Learned A.P.O. has no objection to such innocuous request of learned Counsel for the petitioners.

9. Ld. counsel for the petitioners submitted that such direction may be given by Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition.

10. The claim petition is disposed of, with the consent of Ld. counsel for the parties, by requesting Respondent No.1 to take a decision on the prayer of the petitioners, as per law, within 16 weeks of presentation of certified copy of this order along with documents in support of their prayer. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 03, 2024.
DEHRADUN
KNP